

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 93-681-C - ORDER NO. 94-451 ✓  
MAY 31, 1994

IN RE: Application of PhoneTel Technologies,	)	ORDER
Inc. for a Certificate of Public	)	APPROVING
Convenience and Necessity to Provide Resold	)	CERTIFICATE
Telecommunications Services, Including	)	
Related Operator Services, within the	)	
State of South Carolina.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of PhoneTel Technologies, Inc. (PhoneTel or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. PhoneTel's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Law. Co-op. 1976), as amended, and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed PhoneTel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of PhoneTel's Application and of the manner and time in which to file the appropriate pleadings for participation in these proceedings. PhoneTel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

Petitions to Intervene were filed by Southern Bell Telephone and Telegraph Company (Southern Bell) and the Consumer Advocate for the State of South Carolina (the Consumer Advocate). Southern Bell's subsequent Motion to Withdraw from this proceeding was granted by the Commission in Order No. 94-189, dated March 8, 1994.

On May 4, 1994, the Commission conducted a hearing. The Honorable Henry G. Yonce, Chairman, presided. Gary Morris, Esquire, represented PhoneTel; Carl F. McIntosh, Esquire, represented the Consumer Advocate's Office; and Gayle B. Nichols, Staff Counsel, represented the Commission Staff.

John S. Bolus, President and Chief Operating Officer of PhoneTel, testified on behalf of PhoneTel. Mr. Bolus explained PhoneTel's request for authority to provide intrastate interexchange telecommunications services in South Carolina. Mr. Bolus stated that PhoneTel is a non-facilities based reseller which will utilize high quality transmission facilities leased from other authorized telecommunications carriers. Mr. Bolus explained that PhoneTel's services are designed primarily to originate at locations where callers require operator assistance or alternative billing arrangements. Mr. Bolus testified that PhoneTel will comply with all applicable requirements imposed by the Telephone Operator Consumer Service Improvement Act of 1990 (TOCSIA), 47 U.S.C. §226, the rules of the Federal Communications Commission, and of this Commission.

Mr. Bolus testified that Phonotel's services will enhance

competition for telecommunications services in South Carolina. He testified that increased competition will result in benefits such as improved service quality, increased consumer choice, new service options, and more rapid deployment of the latest technologies.

Bernard Mandel, Vice President and Acting Chief Financial Officer of the Applicant, also testified on behalf of PhoneTel. Mr. Mandel testified specifically on the Company's financial condition. Mr. Mandel explained that while PhoneTel is currently operating at a loss, its revenues are increasing and its equity condition is positive. Mr. Mandel testified that two major suppliers of payphones have made commitments to provide PhoneTel with 1000 payphones each on credit. Mr. Mandel explained that he projected PhoneTel will be profitable this year.

At the close of evidence, the Consumer Advocate expressed its concern about the financial condition of the Company. The Consumer Advocate moved that the Commission treat PhoneTel consistently with its ruling in Working Assets Funding Service, Inc. (Working Assets), Docket No. 91-662-C, and deny its application on the basis of a weak financial condition. See Order No. 92-426 (June 3, 1992).

After full consideration of the applicable law, the Application, and the testimony of record, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. PhoneTel is incorporated under the laws of the State of

Ohio and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. PhoneTel operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.

3. The Consumer Advocate's motion to deny PhoneTel's Application for reasons consistent with the Commission's denial of Working Assets' Application is denied. The Commission finds that its considerations and requirements for approval of applications for resellers of telecommunication services are flexible and evolving and that it is not limited by orders issued two years earlier. However, in recognition of PhoneTel's weak financial condition, the Commission will require the Company to file surveillance reports on a quarterly basis as noted later in this Order.

4. Consequently, the Commission finds that PhoneTel has the experience, capability, and financial resources which are sufficient to provide the services as described in its Application.

#### CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to PhoneTel to provide intrastate service through the resale of Wide Area Telecommunications Services (WATS), Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the

Commission.

2. The Commission adopts a rate design for PhoneTel for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts PhoneTel's proposed maximum rate tariff.

3. PhoneTel shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. PhoneTel shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of PhoneTel's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Law Co-op. 1976), as amended.

4. PhoneTel shall file its tariff and an accompanying price

list within thirty (30) days of the date of this Order. Further, the tariff shall be filed in a loose-leaf binder.

5. PhoneTel is subject to access charges pursuant to Commission Order 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to PhoneTel's resale of service, an end user should be able to access another interexchange carrier or operator service provider, if he so desires.

7. PhoneTel shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If PhoneTel changes underlying carriers, it shall notify the Commission in writing.

8. PhoneTel shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Until otherwise notified, PhoneTel shall file financial reports on a quarterly basis with the Commission. These financial reports shall consistent with the form required to support its Application.

10. Further, PhoneTel shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. With respect to the provision of operator services to hospitality locations and private pay telephones, PhoneTel shall

not charge rates any greater than AT&T's intrastate interLATA rates at the time the call is completed.

12. PhoneTel is required to provide "tent" cards to hotels and motels for placement of guest telephones and stickers to customer-owned pay telephones identifying the Company as the provider of operator services for intrastate interLATA calls. PhoneTel is required to brand all operator calls identifying itself as the carrier of such calls. The information pieces shall be consistent with the format approved by the Commission in Order No. 93-811 issued in Docket No. 92-557-C.

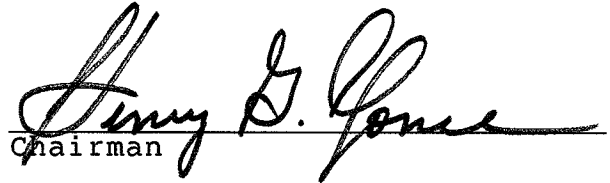
13. PhoneTel shall be allowed to incorporate in its tariff a subscriber surcharge to be applied to operator-assisted and calling card calls not to exceed \$1.00 for calls originating from hotels, motels, and pay telephones only if the property owner or pay telephone provider has not already added any other surcharge. That is, the Company may not impose an additional surcharge to calls originating from hotels, motels, or pay telephones if a surcharge is already imposed by the property owner. This surcharge shall be paid in its entirety to the property owner. Further, if the surcharge is applied on behalf of a property owner, the end user shall be notified of the application of the surcharge. This notification shall be included in the information pieces as previously required by this Order.

14. For the provision of operator services, PhoneTel shall comply with the Operator Service Provider (OSP) Guidelines approved in this Commission's Order No. 93-534 issued under Docket

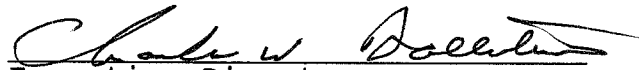
No. 93-026-C.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)



ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR 12  
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

\*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION  
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,  
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

- (4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR  
ENDING \_\_\_\_\_.

\*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT  
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR  
ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE  
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS  
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT  
(SEE #3 ABOVE).